REMARKS

Applicant acknowledges the acceptance of the drawings.

The objection to claims 10-15 based upon the use of the terms "storage unit" and "control unit" is respectfully traversed. In claim 10, the wording "storage unit" has been replaced by the wording --memory unit-- and the expression "control unit" has been deleted. Moreover, claims 10 and 13 have been amended to clarify the understanding of the invention as defined by these two independent claims. Based upon the amendment of claims 10 – 15, the objections to the claims should be withdrawn.

The rejection of claims 10 and 13 under 35 USC 102(a) as being anticipated by JP 2000-285485 or in the alternative under 35 USC 103(a) as being obvious over JP 2000-285485 in combination with Kubo, et al (U.S. Patent 6,301,212) is respectfully traversed.

Claim 10 as amended recites a test recording unit configured to read particular information from said memory unit indicating how a tracking offset value is to be varied for a given rotative mode in the plurality of rotative modes of the optical disk. The memory unit stores information indicating how a tracking offset value is to varied corresponding to each of the plurality of rotative modes. The test recording unit then writes test data in a first plurality of frames of the optical disk using the tracking offset value being varied in accordance with the particular information being read for the given rotative mode. The optical disk drive further includes an optimum tracking offset determination unit configured to determine the optimum tracking offset value based on characteristic values of the signals reproduced from respective frames of the first plurality of frames.

Likewise, claim 13 has been amended to clarify the method of reading the information from the memory unit indicating how a tracking offset value is to be varied for any given rotative mode from a plurality of rotative modes in the

optical disk and writing test data in a first plurality of frames of the optical disk using the tracking offset value being varied in accordance with the information read from the memory unit. Test data is written in a first plurality of frames using the tracking offset value varied in accordance with the information read from the memory unit and then the written test data is read to obtain characteristic values of signals reproduced from respective frames of the first plurality of frames and to determine the optimum tracking offset value based on the obtained characteristic values.

The above features and characteristics of independent claims 10 and 13 as amended are clearly not anticipated by JP 2000-285485.

Applicant has prepared accurate translations of paragraphs 23-25 of the cited reference JP 2000-285485 into English. Paragraph (0025) of JP 2000-285485 reads as follows: "if the offset signal level corresponding to the different rotative speeds is set by adjusting the offset signal levels stored in the memory for a given rotative speed, it is not necessary to perform the aforementioned adjustment operation for each rotative speed." The undersigned attorney of record thanks the Examiner for providing another copy of the MAT translations which are referred to in the Office Communication. Previously, applicant assumed that the Examiner was relying on a MAT translation solely of the Abstract. It should be noted that the attached translations from Applicant into English are stipulated to be true and accurate translations of the corresponding paragraphs. In contrast the MAT translation of paragraph 0026 is almost unintelligible. In any event paragraph 0026 as translated by Applicant clearly teaches the opposite of that alleged by the Examiner. The Examiner is obligated to use the stipulated translation provided by applicant as a true representation of the wording of the reference and not a machine assisted translation which in the case of paragraph 0026 is almost unintelligible in meaning.

Accordingly, the rejection of claims 10 and 13 under either 35 USC 102(a) or under 35 USC 103(a) should be withdrawn.

Claims 11, 12 and 14 have been amended to clarify the understanding of these claims. In claims 11 and 12, the test recording unit repeats the writing of test data and the optimum tracking offset determination unit obtains characteristic values of respective frames in which test data is written. There is no counterpart to this feature in either of the cited references. Claim 14 has been amended so that it is clear that the step of writing test data is repeated for a plurality of time with the tracking offset value varied in accordance with the information read from the memory unit and the step of reading the test data average characteristic values of respective frames in which the test data is written is based upon using the same tracking offset value. Moreover, the step of determining the optimum tracking offset value in the optimum tracking offset value of the optical disk drive is based on the obtained average characteristic values.

For all of the above reasons, claims 10-15 are now deemed to be patentable over the cited references when taking individually or in combination.

The rejection of claims 11 and 14 under 35 USC 103 based upon the rejection of claims 10 and 12 further in view of Yoshida, et al and Kelly is respectfully traversed.

Claims 11 and 14 are dependent claims which depend from claims 10 and 13 respectively and are believed patentable for the same reasons as given above. Moreover, the JP reference, paragraph 25, has been improperly interpreted and does not mean what the Examiner has attributed to it. Accordingly, there is no basis for combining the JP reference with Yoshida.

The rejection of claims 12 and 15 under 35 USC 103(a) further in view of Kubo or JP 3057875 is respectfully traversed based on the explanation given above. No basis exists for the Examiner to support the conclusion of the

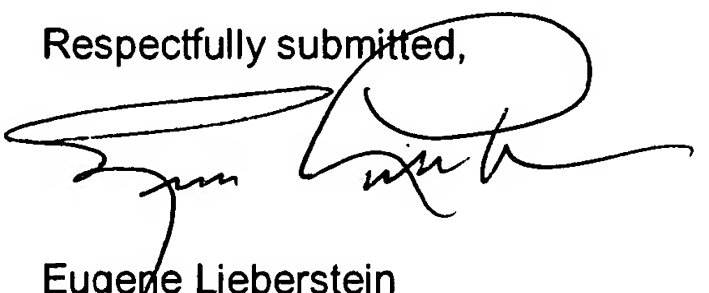
Examiner from the references without applying hindsight. Accordingly, the rejection of claims 12 and 15 should be withdrawn.

The rejection of claims 10-15 under the judicially created doctrine of obviousness-type double patenting over claim 1 of U.S. Patent 6,859,426 in view of either Wu or the JP 2000-285485 is respectfully traversed.

Claims 10 and 13 have been amended to more clearly reflect the present invention. As amended, the subject invention is clearly not taught in claim 1 of U.S. Patent 6,859,426 and the above JP reference has been misinterpreted as explained earlier. Accordingly, this rejection should be withdrawn.

Reconsideration and allowance of claims 10 - 15 is respectfully solicited.

Respectfully submitted,



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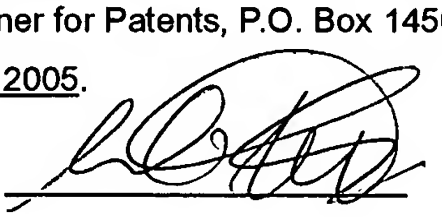
MAILING CERTIFICATE

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed: Commissioner for Patents, P.O. Box 1450, Alexandria, VA, MAIL STOP AF, 22313-1450 on September 13, 2005.



Date: September 13, 2005

I, Osamu MIYAZAKI, a Patent Attorney of Tokyo, Japan having my office at 32nd Floor, Yebisu Garden Place Tower, 20-3 Ebisu 4-Chome, Shibuya-Ku, Tokyo 150-6032, Japan do solemnly and sincerely declare that I am the translator of the attached English language translation and certify that the attached English language translation is a correct, true and faithful translation of the paragraphs [0023]-[0025] of Japanese Patent Application No. 2000-285485 to the best of my knowledge and belief.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

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TRANSLATION OF RELEVANT PARAGRAPHS OF JP2000-285485

[0023]

The adjustment of focusing is performed as described above, and the adjustment of tracking is described below. The adjustment of tracking is performed using the laser power set by the abovementioned operation in the same manner as the adjustment of focusing described above. Test signals are written in a test recording region provided in the disk D with the level of the offset signal that is added to the tracking control signal being changed step-wise by an offset control circuit 15. The test signal is reproduced, and the recording condition of the reproduced test signal is detected by a recording condition detection circuit 14. That is, the offset signal level that shows the best beta value is selected from the signals detected by the recording condition detection circuit 14. The offset control circuit 15 sets the offset signal level to be added to the tracking control signal. Thus, the tracking control operation of an optical pickup 3 can be performed in a state that is the most suitable for the disk D.

[0024]

As described above, the focus control operation and the tracking control operation of the optical pickup 3 can be made the most suitable for the recording of signal on the disk D. After such adjustments, the adjustment of the laser power described above is performed, thereby to further set the laser power at more suitable output level.

[0025]

As described above, the focus control operation and the tracking control operation of the optical pickup 3 can be made the most suitable for the recording of signal on the disk D. If the offset signal level under such a suitable condition is stored in a non-volatile memory, it is not necessary to perform such adjustment operations again. In addition, in the case of an optical disk drive that can write data with different disk rotative speeds, if the offset signal level corresponding to the different rotative speeds is set by adjusting the offset signal level stored in the memory for a given rotative speed, it is not necessary to perform the abovementioned adjustment operation for each rotative speed. (emphasis added)